

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS****BET INVESTMENTS, INC. and BT DRYDEN, LP**(b) County of Residence of First Listed Plaintiff **Montgomery County**  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)  
**DANIEL M. BROWN, ESQ., PO Box 2903, Hartford, CT 06104 (mailing address)**  
**10 Sentry Pkwy, Suite 301, Blue Bell, PA 19422 (physical address)**  
**215-274-1716****DEFENDANTS****GREAT NORTHERN INSURANCE COMPANY,  
a corporation**County of Residence of First Listed Defendant **Philadelphia Cty**  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         | PTF                        | DEF                        |                                                               | PTF                                   | DEF                                   |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|---------------------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act		
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1331; 28 U.S.C. § 2201; 18 U.S.C. § 1391(a)

Brief description of cause:

**Declaratory Judgment seeking declaration that Defendant provide coverage to underlying party.****VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

3/08/2021

SIGNATURE OF ATTORNEY OF RECORD

//Daniel M. Brown

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**DESIGNATION FORM**

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: BET 200 Witmer Rd., Suite 200, Horsham, Montgomery Cty, PA 19044  
BT Dryden, LP, 200 Dryden Rd, Suite 2000, Dresher, PA 19025  
Address of Defendant: 1600 John F. Kennedy Blvd., Suite 500, Philadelphia, PA 19103

Place of Accident, Incident or Transaction: 200 Dryden Road, Dresher, PA 19025

**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |                                                                                                                                                                                        |                              |                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?                                        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?                                                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/08/2021

//Daniel M. Brown

59638

*Attorney-at-Law / Pro Se Plaintiff*

*Attorney I.D. # (if applicable)*

**CIVIL: (Place a ✓ in one category only)**

**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts  
☐ 2. FELA  
☐ 3. Jones Act-Personal Injury  
☐ 4. Antitrust  
☐ 5. Patent  
☐ 6. Labor-Management Relations  
☐ 7. Civil Rights  
☐ 8. Habeas Corpus  
☐ 9. Securities Act(s) Cases  
☐ 10. Social Security Review Cases  
☐ 11. All other Federal Question Cases  
(Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☒ 1. Insurance Contract and Other Contracts  
☐ 2. Airplane Personal Injury  
☐ 3. Assault, Defamation  
☐ 4. Marine Personal Injury  
☐ 5. Motor Vehicle Personal Injury  
☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_  
☐ 7. Products Liability  
☐ 8. Products Liability – Asbestos  
☐ 9. All other Diversity Cases  
(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, \_\_\_\_\_, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

**Sign here if applicable**

*Attorney-at-Law / Pro Se Plaintiff*

*Attorney I.D. # (if applicable)*

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

BET INVESTMENTS, INC. and  
BT DRYDEN, LP

V.

GREAT NORTHERN INSURANCE COMPANY,  
a corporation

:  
:  
:  
:  
:  
:

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x )

<u>03/08/2021</u> <b>Date</b>	Daniel M. Brown <i>/// Daniel M. Brown</i> <b>Attorney-at-law</b>	<u>Plaintiff</u> <b>Attorney for</b>
<u>215-274-1716</u> <b>Telephone</b>	<u>215-833-4262</u> <b>FAX Number</b>	<u>dbrown9@travelers.com</u> <b>E-Mail Address</b>

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

---

<b>BET INVESTMENTS, INC and</b>	:	
<b>BT DRYDEN, LP,</b>	:	
	:	<b>NO.</b>
<b>Plaintiffs,</b>	:	
	:	
<b>vs.</b>	:	
	:	
<b>GREAT NORTHERN INSURANCE</b>	:	
<b>COMPANY, a corporation</b>	:	
	:	
<b>Defendant.</b>	:	

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiffs, BET Investments, Inc. (“BET”) and BT Dryden, LP (“BT Dryden”) (collectively, the “BET Plaintiffs”), by and through counsel, Daniel M. Brown, Esquire and William J. Ferren and Associates, hereby files its Complaint for Declaratory Judgment averring as follows:

**INTRODUCTION**

1. This complaint is filed pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, and Rule 57 of the Federal Rules of Civil Procedure.

2. In this action, BET Plaintiffs seeks a declaration that Defendant, Great Northern Insurance Company (“Great Northern”), was obligated to defend and indemnify BET Plaintiffs in connection with an underlying bodily injury action, entitled *Rosanna Luchin and Jonathan Luchin vs. BT Dryden, LP; BT Dryden GP, LLC and BET Investments, Inc.*, Case Number 2019-04121 (“*Luchin suit*”) brought in the Court of Common Pleas of Montgomery County, Commonwealth of Pennsylvania (“Underlying Action”) and due to its breach of that obligation,

must reimburse The Charter Oak Fire Insurance Company (“Charter Oak”) for all defense and indemnity costs incurred on behalf of BET Plaintiffs in the Underlying Action.

3. BET is a Pennsylvania corporation, organized and existing under the laws of the Commonwealth of Pennsylvania with a registered business address at 200 Witmer Rd., Suite 200, Horsham, Montgomery County, Pennsylvania, 19044.

4. BT Dryden, LP is a limited liability partnership formed in the Commonwealth of Pennsylvania with its principal place of business address is 200 Dryden Road, Suite 2000, Dresher, PA 19025.

5. Great Northern is a New Jersey corporation, organized and existing under the laws of the State of New Jersey with a registered business address at 1600 John F. Kennedy Blvd., Suite #500, Philadelphia County, Pennsylvania, 19103 and is engaged in the business of issuing policies of liability in this Commonwealth.

6. At all times relevant hereto, Defendant Great Northern regularly conducts business in Montgomery County, Pennsylvania.

7. In the *Luchin suit*, Plaintiff Rosanna seeks relief in an amount in excess of \$75,000, having made a demand of \$250,000.00.

#### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this action under 28 U.S.C. § 1331 because the amount in controversy exceeds \$75,000, exclusive of interest and costs.

9. This Court also has jurisdiction pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201.

10. Venue is proper in this judicial district under 28 U.S.C. § 1391(a) because a substantial part of the acts and omissions giving rise to this action occurred in this district.

11. At all times relevant hereto, Defendant Great Northern regularly conducted business in the County of Montgomery, Pennsylvania, located in this district.

**BACKGROUND FACTS**

12. At all times relevant herein, BT Dryden owned the premises located at 200 Dryden Road, Dresher, Pennsylvania, 19025, BT Dryden purchased the property and was the successor to Montgomery Corporate Center, Inc.; which property was the subject of the *Luchin suit*, described below. A true and correct copy of the Assignment of Leases is attached hereto as Exhibit “A”.

13. At all times relevant herein, Ascensus, Inc. (“Ascensus”) is a tenant under the Amended and Restated Lease Agreement between Montgomery Corporate Center, Inc. and Ascensus, Inc., effective January 31, 2013, operates the cafeteria, and is responsible for the maintenance of the area where the incident occurred. A true and correct copy of the Amended and Restated Lease Agreement is attached hereto as Exhibit “B”.

14. At all times relevant herein, upon information and belief, under Section 10.1 of the Amended and Restated Lease Agreement – Tenant Insurance, Ascensus is to name the Landlord and Property Manager as Insureds on a primary basis for any loss arising from the use or occupancy of the premises.

15. At all times relevant herein, BET acted as a property manager of property listed in the *Luchin suit* located at 200 Dryden Rd., Dresher, Pennsylvania, 19025.

16. At all times relevant herein, BET and Branch Valley Services (“Branch Valley”) entered into a certain Letter of Agreement, dated September 5, 2017, where Branch Valley acted as a contractor of real estate located at 200 Dryden Rd., Dresher, Pennsylvania, 19025. A true and correct copy of the Snow Removal Contract is attached hereto as Exhibit “C”.

17. At all times relevant herein, upon information and belief, Great Northern issued a certain policy to its named insured, Ascensus. A true and correct copy of the policy is attached hereto as Exhibit “D”.

18. At all times relevant herein, upon information and belief, per the Great Northern policy, Plaintiffs are deemed “an insured” per the “Who is an Insured – Lessors of Premises” section, “Persons or organizations from whom you lease premises are Insureds only with respect to the ownership, maintenance or use of that particular part of such premises leases to you and only if you are contractually obligated to provide them with such insurance as is afforded by this contract.”

19. At all times relevant herein, Charter Oak issued a certain policy, YO630-526D2290, to its named insured BET, effective June 30, 2017 to June 30, 2018.

#### **UNDERLYING SUIT**

20. On March 8, 2018, Rosanna Luchin and Jonathan Luchin (“Luchin Plaintiffs”) filed a Complaint against BT Dryden LP, BT Dryden GP, LLC, and BET Investments, Inc., in the Court of Common Pleas of Montgomery County, State of Pennsylvania, Docket No. 2019-04121 (“*Luchin suit*”). A true and correct copy of the Complaint is attached hereto as Exhibit “E”.

21. The Complaint alleges that on or about December 19, 2017, Plaintiff Rosanna Luchin (“Rosanna”) was on the premises located at 200 Dryden Rd., Suite 200, Dresher, Pennsylvania as an employee of American Realty Capital (“ARC”), a tenant in the building when she was walking in the hallway to the cafeteria and was caused to slip and fall due to a hazardous condition and sustaining severe and permanent injuries. *See* Exhibit “E” at ¶¶12.

22. The accident allegedly caused Rosanna to sustain severe and permanent injuries,

including, without limitation, right radial neck fracture, right wrist DRUJ injury, significant amount of pain, muscle weakness, decreased range of motion and decreased strength to her right shoulder, elbow, wrist and hand; injury to her knee; and other soft tissue and related injuries, pain and suffering. *See* Exhibit “E” at ¶¶16.

23. Count I of the *Luchin* Complaint is brought against all Defendants sounding in negligence and seeking to recover damages for Plaintiff’s injuries. It is alleged that all Defendants were responsible for the maintenance, care, supervision, repair and oversight of the premises. *See* Exhibit “E” at ¶¶13-21.

24. Count II of the *Luchin* Complaint is brought against all Defendants by Plaintiff Jonathan Luchin sounding in loss of consortium and seeking to recover damages for Plaintiff Rosanna’s injuries. It is alleged that as a direct and proximate result of Defendants’ negligence, Jonathan Luchin has lost the consortium, society, companionship and services of his spouse, Rosanna. *See* Exhibit “E” at ¶¶22-23.

25. On or about January 14, 2020, the Plaintiffs filed an Amended Complaint adding Ascensus, Inc as a named Defendant. A true and correct copy of Amended Complaint is attached hereto as Exhibit “F”.

26. Charter Oak, as insurer for BET, has expended in excess of \$13,375.23 to date in connection with the defense of the *Luchin suit*, which includes but is not limited to, attorneys’ fees, costs and expenses.

#### **TENDER TO GREAT NORTHERN**

27. On or around December 10, 2019, Charter Oak, on behalf of Plaintiffs, by email to Ascensus’ attorney, tendered the defense and indemnity of the *Luchin suit* to Ascensus. A true and correct copy of the tender letter is attached hereto as Exhibit “G”.



28. On January 7, 2020, Charter Oak, by email to Ascensus' attorney requesting the status on the tender request.

29. On or about February 3, 2020, Charter Oak received verbal notice that Ascensus has denied the tender request at this time.

30. On July 1, 2020, Charter Oak, called Great Northern and left a voicemail requesting an update on the status of any negotiation, reason for tender denial.

31. On or about August 10, 2020, Charter Oak spoke with Great Northern representative regarding the status and was told that it was pending information from Great Northern defense counsel.

32. In or around September 2020 and October 2020, Charter Oak requested a copy of Ascensus' Great Northern policy.

33. To date there has been no response from Ascensus or Great Northern regarding our tender request.

### **COUNT I – DECLARATORY JUDGMENT**

34. Upon information and belief, BET Plaintiffs qualified as named insureds on the Great Northern Policy.

35. Upon information and belief, the General Liability Coverage Form of the Great Northern CGL states that the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this contract. In addition to the Named Insured, other persons or organizations may qualify as "Insureds". Those persons or organizations and the conditions under which they qualify are identified in the "Who is An Insured" section of this contract.

36. Upon information and belief, the Coverages section of the Great Northern CGL

provides:

- a. We will pay damages that the Insured becomes legally obligated to pay by reason of liability imposed by law or assumed in an insured contract for “bodily injury” or “property damage” caused by an occurrence to which this coverage applies. Damages for “bodily injury” includes damages claimed by a person or organization for care or loss of services resulting at any time from the “bodily injury.”

37. Upon information and belief, the Coverages section of the Great Northern CGL states: “Who is an Insured – Additional Insured – Schedule Person or Organization”... “Persons or organizations shown in the Schedule are Insureds...for activities that did not occur, in whole or in part, before the execution of the contract or agreement; and with respect to damages, loss, cost of expense for injury or damage to which this insurance applies.”

#### **BASIS FOR RELIEF**

38. BET Plaintiffs realleges and incorporates herein by reference each and every allegation contained in paragraph 1 through 37, inclusive, as though fully set forth herein.

39. Charter Oak tendered the *Luchin suit*, on behalf of BET Plaintiffs, to Great Northern, asserting that Great Northern owed a duty to defend and indemnify BET Plaintiffs under the Great Northern policy on a primary and non-contributory basis.

40. Upon information and belief, the terms of the Great Northern policy required that Great Northern defend BET Plaintiffs as insureds under Section II of its policy.

41. Upon information and belief, under the Great Northern CGL policy, BET Plaintiffs qualifies as “insureds” under the Conditions section “Other Insurance – Primary

Insurance” states, “This insurance is primary except when the Excess Insurance...” it is further believed that the Excess Insurance does not apply to BET Plaintiffs.

42. Great Northern had a duty to defend BET Plaintiffs as insureds under its policy from the date of tender on December 10, 2019 and had a continuing duty to defend it in the *Luchin* suit.

43. Great Northern has a duty to indemnify BET Plaintiffs with respect to the *Luchin* suit.

44. A judicial declaration is necessary and appropriate at this time to determine the respective rights and duties of the parties and to determine Great Northern responsibility for BET Plaintiffs’ defense fees and costs, and the settlement amount with respect to the *Luchin* suit.

**PRAYER FOR RELIEF**

**WHEREFORE**, for the reasons set forth above, BET prays that the Court find and declare that Great Northern owes BET Plaintiffs the duty to defend and duty to indemnify it in the *Luchin* suit on a primary and non-contributory basis.

WILLIAM J. FERREN & ASSOCIATES

//s/ Daniel M. Brown

BY: \_\_\_\_\_

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